



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER KENT L. JONES
Executive Director *State Engineer/Division Director*

Bear Creek Irrigation Company
c/o Bruce Fullmer
PO Box 164
Panguitch, UT 84759

Re: Bear Creek Canal

November 14, 2017

Mr. Fullmer:

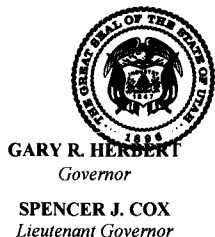
Enclosed is a formal Notice from the State Engineer's Office explaining that Bear Creek Irrigation Company's Diversion needs an accurate measuring device such as a flume or a weir. The measuring device must be installed prior to diverting water next spring.

You are probably aware that concerns regarding the flow diverted into Bear Creek Canal have been registered from Bear Creek shareholders and from the Water Commissioner. In order to ensure Bear Creek Canal receives its full water right we need a better measurement than the culvert rating.

You are receiving the Notice because the State Engineer's records indicate you are the President of Bear Creek Irrigation Company. Should you have any questions about this Notice, please feel free to call me at (801) 538-7431.

Regards,

Sue Odekirk, P.E.
Distribution Engineer



State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Bear Creek Irrigation Company</p> <p>RESPONDENT</p>	<p>Bear Creek Canal</p> <p>HEAD GATE AND MEASURING DEVICE NOTICE</p> <p>SEAA 2103</p> <p>DISTRIBUTION ACCOUNT: 102079 WATER RIGHTS: 61-2019</p>
---	--

I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part:

- 1) *To assist the State Engineer or water commissioner in the regulation, distribution and measurement of water, a person using water in this state ...shall construct or install and maintain ...a measuring device at :*
 - a. *Each location where water is diverted from a source; and*
 - b. *Any other location required by the state engineer*
- 2) *A person using water in this state shall make the ...measuring device accesible to the state engineer or water commissioner.*
- 3) *The state engineer shall approve the design of :*
 - a. *The measuring device*
- ...
- 6) *If a water user refuses or neglects to construct or install the ...measuring device after 30 days' notice to do so by the state engineer, the state engineer may :*
 - a. *Forbid the use of water until the user complies with the state engineer's requirement; and*
 - b. *Commence enforcement proceedings authorized by Section 73-2-25.*



November 13, 2017

Subject: Re: Bear Creek Canal Measuring Device Notice

II. STATEMENT OF FACTS

1. The Respondent diverts water from Bear Creek which is tributary to the Sevier River, under the above-listed water right into the Bear Creek Canal at the following location: North 1,950 feet and East 430 feet from the SW corner Section 10, Township 33 South, Range 5 West, Salt Lake Baseline & Meridian.
2. Bear Creek Canal lacks an accurate measuring device at the head of the canal.
3. Equitable distribution of water requires that the Respondent's diversion be equipped with an accurate measuring device such as a flume or weir.

III. ACTIONS REQUIRED

1. **By May 1, 2018 the Respondent shall install an accurate measuring device such as a flume or weir, complete with a stilling well, near the head of the canal but downstream of the return gate.** Prior to commencing the required work and during the construction the Respondent shall consult with Water Commissioner or Distribution Engineer to assure that the planned installation will satisfy the requirements of this Notice.

Water should not be diverted after May 1, 2018 unless the above actions have been completed.

The orderly distribution of water from the Sevier River in accordance with existing water rights is a concern to Division as well as to the Respondent. To that end we appreciate and thank you for your cooperation. If you have any questions concerning this Notice please contact Sue Odekirk, Distribution Engineer at (801) 538-7431 or Russel Christensen, River Commissioner at (435) 979-2087.

Respectfully,



Sue Odekirk, P.E.
Sevier River Distribution Engineer

Page 3

November 13, 2017

Subject: Re: Bear Creek Canal Measuring Device Notice

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 14th day of November, 2017, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Bear Creek Irrigation Company
c/o Bruce Fullmer
PO Box 164
Panguitch, UT 84759

Kelly Horne

Kelly Horne
Division of Water Rights
Field Services Secretary

7002 0510 0002 2228 7806

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
11/14/2017 10:00 AM PST	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
Full Form 3800, January 2001	
See Reverse for Instructions	

EC: Kirk Forbush, Russel Christensen
CC: Robert Lay